

GALLAGHER & KENNEDY

P.A.
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August 24, 2009

VIA US MAIL

Re: Roosevelt Irrigation District Response Action

Dear:

The purpose of this letter is to invite you and your representatives to a meeting to be held at the Mountain Preserve Reception Center; 1431 East Dunlap Avenue; Phoenix, Arizona 85020-3026. The meeting is to be held on the 16th of September, 2009 at 9:00 a.m. The meeting is being called for the purpose of discussing the remedial alternatives and early response action being investigated and evaluated by the Roosevelt Irrigation District ("RID") and the parameters of a creative potential settlement between your organization and other potentially responsible parties with RID for the contamination of its groundwater wells.

This office represents RID. RID is a political subdivision of the State of Arizona. RID is organized and operated under Article XIII of the Arizona Constitution and Title 48, Chapter 19 of the Arizona Revised Statutes.

RID owns and operates approximately 100 groundwater wells in the western portion of Maricopa County. The wells are used to supply water to public and private entities and individuals for industrial, agricultural and residential uses. The groundwater pumped by over 20 of these wells is contaminated with pollutants including, but not limited to, trichloroethene ("TCE"); 1,1,1-trichloroethane ("TCA"); methyl tertiary butyl ether ("MTBE"); and tetrachloroethene ("PCE"). The contamination is associated with three regional sites which have been identified under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. §§ 9601 - 9675) ("CERCLA") or the Arizona's Water Quality Assurance Revolving Fund program (A.R.S. §§ 49-281 - 49-298) ("WQARF"). The three sites are described below:

Motorola 52nd Street Superfund Site ("M-52")

M-52 is listed on the United States Environmental Protection Agency's ("EPA's") National Priorities List. (40 C.F.R. Pt. 300, App. B). M-52 has been subdivided into three operable units ("OUs"). The approximate boundaries of OU1 are Palm Lane to the north, 52nd Street to the east, Roosevelt Street to the south and 44th Street to the west. The approximate

boundaries of OU2 are Roosevelt Street to the north, 44th Street to the east, Buckeye Road to the south and 18th Street to the west. The approximate boundaries of OU3 are McDowell Road to the north, 20th Street to the east, Buckeye Road to the south and 7th Avenue to the west.

West Van Buren Area WQARF Site

The West Van Buren Area WQARF Site ("WVBA") is listed on the Arizona Department of Environmental Quality's ("ADEQ's") WQARF Registry established under A.R.S. § 49-287.01(D). The approximate boundaries of WVBA are McDowell Road to the north, 7th Avenue to the east, Lower Buckeye Road to the south and 75th Avenue to the west.

West Central Phoenix Area WQARF Site

The West Central Phoenix WQARF Site ("WCP") also is listed on ADEQ's WQARF Registry. WCPA is bounded approximately by Campbell Road to the north, 19th Avenue to the east, McDowell Road to the south and 43rd Avenue to the west.

The groundwater underlying each of these three sites is moving in a south-westerly or westerly direction and is hydrologically connected to the groundwater pumped by RID. Your organization, or a predecessor-in-interest to your organization, has been identified in records maintained by either EPA or ADEQ, or other property records, as having owned and/or operated one or more facilities within the boundaries of the three sites. More importantly, releases or threatened releases of hazardous substances have been documented at the facilities. As a result, you are potentially jointly and severally liable for all recoverable response costs and damages incurred to date and to be incurred in the future by RID under the provisions of Section 107(a) of CERCLA, (42 U.S.C. § 9607(a)) and other common law causes of action for such releases or threatened releases.

If necessary, Gallagher & Kennedy is authorized to file suit on behalf of RID against potentially responsible parties to recover response costs and damages to RID's wells under the provisions of CERCLA, Arizona State law and federal common law. Of course, as an existing or former client of Gallagher & Kennedy, you would not be named in any suit by Gallagher & Kennedy unless appropriate consent is subsequently obtained. However, RID is prepared to hire separate legal counsel, if necessary, to file suit against potentially responsible parties that are clients of Gallagher & Kennedy. Also, one or more of the parties named in the action might attempt to seek contribution from your organization in a separate contribution action. Therefore, you are invited to the meeting so that you are aware of a potential solution which could preclude such actions.

If not addressed by RID and supported by the potentially responsible parties, EPA and/or ADEQ will require the construction of multiple groundwater "pump and treat" systems to remediate the groundwater contamination at these three sites. Such "pump and treat" systems have already been installed for some operable units at M-52. These individually designed and separately operated systems are not only expensive to construct, they will require many decades of costs to operate and maintain and often prove inefficient, ineffective, and fail to provide "final" relief from liability. RID intends to avoid such problems.

RID has assembled a technical team which is investigating and evaluating remedial alternatives to provide long-term protection and unrestricted use of its wells and water supply, including the implementation of an early response action to protect RID's wells that have not yet been impacted and to mitigate impacts to the impacted RID wells. The remedial alternatives under consideration will utilize RID's impacted wells and existing pipelines and easements to design and operate a single, regional "pump and treat" system that could effectively address the groundwater contamination at these three sites that currently impacts and/or threatens to impact RID wells, thereby saving significant costs compared to the costs for multiple new "pump and treat" systems.

More significantly, if the necessary funding can be obtained for well integration, the required water treatment facility(ies), and a separate delivery system for the treated water, RID is prepared to enter into a consent decree with settling parties that could eliminate liability for the very significant future long-term "pump and treat" operation and maintenance costs. Participation in the consent decree by ADEQ also could provide protection from any contribution claims from any non-settling potentially responsible party under Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2); and A.R.S. § 49-292(C).

As an existing or former client, Gallagher & Kennedy is currently requesting a waiver of potential conflict only for the purposes of your organization attending the September meeting and/or participating in potential settlement negotiations with Gallagher & Kennedy on behalf of RID. This waiver is not for any future potential litigation. A separate litigation waiver would be requested, if necessary. Please provide your consent to the limited waiver of potential conflict by executing this letter where indicated.

If your organization does not want to waive the potential conflict with Gallagher & Kennedy for the September meeting and/or for the subsequent potential settlement negotiations, RID will hire separate legal counsel who will send out separate letters advising Gallagher & Kennedy clients of RID's CERCLA cost recovery claim and its desire to pursue potential settlement negotiations prior to litigation. In deciding whether to waive the potential conflict, you should consider how Gallagher & Kennedy's representation of RID as described above could or might affect your organization. Gallagher & Kennedy does not believe there is any material risk that its representation of RID in the above-referenced matter will adversely impact Gallagher & Kennedy's representation of an existing client in unrelated matters or that there is any material risk that any confidences or secrets will be used adversely against existing or former clients. You may wish to seek independent counsel to assist you in deciding whether or not to waive the potential conflict. In any event, Gallagher & Kennedy recommends that separate counsel represent you in any potential settlement negotiations with RID.

The purpose of the September meeting is to discuss RID's response options, cost estimates and creative potential settlement alternative that can avoid litigation, significant response costs, and provide liability "finality" for the settling potentially responsible parties. While you either have been or continue to be a client of Gallagher & Kennedy's, we want to make you aware of the actions we are taking on behalf of RID, and give you the opportunity to take advantage of the settlement options we are exploring.

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We hope you and your representatives are able to attend the September meeting. Please RSVP via email to Stuart.Kimball@gknet.com.

Very truly yours,

GALLAGHER & KENNEDY, P.A.

By:

David P. Kimball, III

I hereby consent to and waive any potential conflict with respect to Gallagher & Kennedy's representation of RID as set forth above:

DATED: _____

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